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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

| | |
|------------------------|--|
| Attorney Docket No. | 38-21(15678)C |
| First Inventor | James D. Masucci |
| Title | Plant Regulatory Sequences for Selective Control |
| Express Mail Label No. | ER 166475852US |

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)

2. Applicant claims small entity status.
See 37 CFR 1.27.

3. Specification [Total Pages 87]
(preferred arrangement set forth below)

- Descriptive title of the invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R & D
- Reference to sequence listing, a table, or a computer program listing appendix
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings (*if filed*)
- Detailed Description
- Claim(s)
- Abstract of the Disclosure

4. Drawing(s) (35 U.S.C. 113) [Total Sheets 2]

5. Oath or Declaration [Total Pages]

a. Newly executed (original or copy)
Copy from a prior application (37 CFR 1.63 (d))
(for continuation/divisional with Box 18 completed)

i. **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).

6. Application Data Sheet. See 37 CFR 1.76

ADDRESS TO: Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

7. CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)

8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)

- a. Computer Readable Form (CRF)
- b. Specification Sequence Listing on:
 - i. CD-ROM or CD-R (2 copies); or
 - ii. paper
- c. Statements verifying identity of above copies

03916 U.S. PTO
09/11/03
03916 U.S. PTO
09/11/03**ACCOMPANYING APPLICATION PARTS**

9. Assignment Papers (cover sheet & document(s))

10. 37 CFR 3.73(b) Statement Power of Attorney
(when there is an assignee)

11. English Translation Document (*if applicable*)

12. Information Disclosure Statement (IDS)/PTO-1449 Copies of IDS Citations

13. Preliminary Amendment

14. Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)

15. Certified Copy of Priority Document(s)
(if foreign priority is claimed)

16. Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.

17. Other:

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

 Continuation Divisional Continuation-in-part (CIP)

of prior application No.: 09, 846,903

Prior application information:

Examiner: Cynthia E. Collins

Group Art Unit: 1638

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

| | | | | |
|---|---|-----------|--------------|---|
| <input checked="" type="checkbox"/> Customer Number or Bar Code Label | 27161 <i>(Insert Customer Number or Bar Code Label here)</i> | | or | <input type="checkbox"/> Correspondence address below |
| Name | Forchisha M. Davis | | | |
| Address | Patent Department, E2NA, Monsanto Company 800 N. Lindbergh Boulevard | | | |
| City | St. Louis | State | Missouri | Zip Code |
| Country | USA | Telephone | 314-694-3151 | Fax |

| | | | |
|-------------------|---------------------------|-----------------------------------|---------------|
| Name (Print/Type) | Forchisha M. Davis | Registration No. (Attorney/Agent) | 48,371 |
| Signature | Forchisha M. Davis 48,371 | | Date 09/11/03 |

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

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FEE TRANSMITTAL

for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

Complete if Known

| | |
|----------------------|------------------|
| Application Number | 38-21(15678)C |
| Filing Date | |
| First Named Inventor | James D. Masucci |
| Examiner Name | To be assigned |
| Art Unit | To be assigned |
| Attorney Docket No. | 38-21(15678)C |

METHOD OF PAYMENT (check all that apply)

 Check Credit card Money Order Other None
 Deposit Account:

| | |
|------------------------|---------|
| Deposit Account Number | 13-4125 |
| Deposit Account Name | |

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) during the pendency of this application
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

| Large Entity | Small Entity | Fee Code (\$) | Fee Code (\$) | Fee Description | Fee Paid |
|--------------|--------------|---------------|---------------|------------------------|----------|
| 1001 750 | 2001 375 | | | Utility filing fee | \$750 |
| 1002 330 | 2002 165 | | | Design filing fee | |
| 1003 520 | 2003 260 | | | Plant filing fee | |
| 1004 750 | 2004 375 | | | Reissue filing fee | |
| 1005 160 | 2005 80 | | | Provisional filing fee | |
| SUBTOTAL (1) | | (\$) | | | |
| | | 750 | | | |

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| Total Claims | Extra Claims | Fee from below | Fee Paid |
|--------------------|--------------|----------------|------------|
| 27 | -20** = 7 | x 18 | = 126 |
| Independent Claims | 7 | - 3** = 4 | x 84 = 320 |
| Multiple Dependent | | | 280 = 0 |

| Large Entity | Small Entity | Fee Description |
|--------------|--------------|--|
| 1202 18 | 2202 9 | Claims in excess of 20 |
| 1201 84 | 2201 42 | Independent claims in excess of 3 |
| 1203 280 | 2203 140 | Multiple dependent claim, if not paid |
| 1204 84 | 2204 42 | ** Reissue independent claims over original patent |
| 1205 18 | 2205 9 | ** Reissue claims in excess of 20 and over original patent |
| SUBTOTAL (2) | | (\$) |
| 446 | | |

**or number previously paid, if greater; For Reissues, see above

3. ADDITIONAL FEES

Large Entity Small Entity

| Fee Code | Fee (\$) | Fee Code | Fee (\$) | Fee Description | Fee Paid |
|----------|----------|----------|----------|--|----------|
| 1051 | 130 | 2051 | 65 | Surcharge - late filing fee or oath | |
| 1052 | 50 | 2052 | 25 | Surcharge - late provisional filing fee or cover sheet | |
| 1053 | 130 | 1053 | 130 | Non-English specification | |
| 1812 | 2,520 | 1812 | 2,520 | For filing a request for ex parte reexamination | |
| 1804 | 920* | 1804 | 920* | Requesting publication of SIR prior to Examiner action | |
| 1805 | 1,840* | 1805 | 1,840* | Requesting publication of SIR after Examiner action | |
| 1251 | 110 | 2251 | 55 | Extension for reply within first month | |
| 1252 | 410 | 2252 | 205 | Extension for reply within second month | |
| 1253 | 930 | 2253 | 465 | Extension for reply within third month | |
| 1254 | 1,450 | 2254 | 725 | Extension for reply within fourth month | |
| 1255 | 1,970 | 2255 | 985 | Extension for reply within fifth month | |
| 1401 | 320 | 2401 | 160 | Notice of Appeal | |
| 1402 | 320 | 2402 | 160 | Filing a brief in support of an appeal | |
| 1403 | 280 | 2403 | 140 | Request for oral hearing | |
| 1451 | 1,510 | 1451 | 1,510 | Petition to institute a public use proceeding | |
| 1452 | 110 | 2452 | 55 | Petition to revive - unavoidable | |
| 1453 | 1,300 | 2453 | 650 | Petition to revive - unintentional | |
| 1501 | 1,300 | 2501 | 650 | Utility issue fee (or reissue) | |
| 1502 | 470 | 2502 | 235 | Design issue fee | |
| 1503 | 630 | 2503 | 315 | Plant issue fee | |
| 1460 | 130 | 1460 | 130 | Petitions to the Commissioner | |
| 1807 | 50 | 1807 | 50 | Processing fee under 37 CFR 1.17(q) | |
| 1806 | 180 | 1806 | 180 | Submission of Information Disclosure Stmt | |
| 8021 | 40 | 8021 | 40 | Recording each patent assignment per property (times number of properties) | |
| 1809 | 750 | 2809 | 375 | Filing a submission after final rejection (37 CFR 1.129(a)) | |
| 1810 | 750 | 2810 | 375 | For each additional invention to be examined (37 CFR 1.129(b)) | |
| 1801 | 750 | 2801 | 375 | Request for Continued Examination (RCE) | |
| 1802 | 900 | 1802 | 900 | Request for expedited examination of a design application | |

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

SUBMITTED BY

(Complete if applicable)

| | | | | | |
|-------------------|--------------------|-----------------------------------|----------|-----------|--------------|
| Name (Print/Type) | Forchisha M. Davis | Registration No. (Attorney/Agent) | 48, 371 | Telephone | 314-694-3151 |
| Signature | Dorchisha M. Davis | Date | 09/11/03 | | |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

James D. Masucci *et al.*

Appln. No.: To be assigned

Filed:

For: Plant Regulatory Sequences for
Selective Control of Gene Expression

Art Unit: To be assigned

Examiner: To be assigned

Atty. Docket: 38-21(15678)C

I hereby verify this transmittal together with the patent application referred to below is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 Express Mail Label No. ER 166475852US on the date indicated and is addressed to:
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Forchisha M. Davis Registration No. 48,371

Forchisha M. Davis Date: 9/11/03

TRANSMITTAL OF DIVISIONAL PATENT APPLICATION

Mail Stop Box Patent Application

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing under 37 C.F.R. §1.53(b) is the complete patent application of :

Plant Regulatory Sequences For Selective Control Of Gene Expression

Inventors: James D. Masucci
Patrice Dubois
Marianne Malven
Timothy W. Conner

The following documents are forwarded herewith for appropriate action by the U.S. Patent and Trademark Office:

1. Utility Patent Application Transmittal (PTO/SB/05);
2. Form PTO/SB/17 (in duplicate);
3. U.S. Utility Patent Application entitled:

Plant Regulatory Sequences For Selective Control Of Gene Expression
and naming as inventors:

James D. MASUCCI, Patrice DUBOIS, Marianne MALVEN, and Timothy W. CONNER
the application consisting of:

- a. A specification containing:
 - (i) 84 pages of a description prior to the claims;
 - (ii) 3 pages of claims (27 claims);
 - (iii) 2 pages of drawings, figures 1-2;
 - (iv) a one (1) page abstract;
4. One diskette containing the sequence listing information;
5. Combined declaration and Power of Attorney, executed by inventors James D. Masucci, Patrice Dubois, Marianne Malven, Timothy W. Conner (3 pages).
6. Cover Letter for declaration under CFR 1.63(d) (1) (iv);
7. Statement Regarding computer Readable Media for Sequence Listing;
8. One (1) return postcard.

It is respectfully requested that the one attached prepaid postcard be stamped with the filing date and unofficial application number and returned as soon as possible.

Respectfully submitted,

Forchisha M. Davis

Forchisha M. Davis (Reg. No. 48,371)

Enclosures

Date: 09/11/03

Patent Department, E2NA
Monsanto Company
800 N. Lindbergh Boulevard
St. Louis, MO 63167
Tel: 314-694-3151
Fax: 314-694- 9009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re applications of:

James D. Masucci et al.

Art Unit: To be assigned

Appln. No.: To be assigned

Examiner: To be assigned

Filed:

Atty. Docket: 38-21(15678)C

For: Plant Regulatory Sequences For Selective
Control Of Gene Expression

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Cover Letter For Declaration

The Attached application is a Divisional application of 09/846,903 under 37 CFR 1.53(b). Applicants request that the copy of the attached declaration be admitted under 37 CFR 1.63(a) (1) (iv).

on 09/11/03

Forchisha M. Davis Reg. No 48,371
(Printed name of person signing this certificate)

Forchisha M. Davis
(Signature)